



## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB-2020-0013; T.D. TTB-178; Ref: Notice No. 198]**

**RIN: 1513-AC62**

### **Expansion of the Clarksburg Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is expanding the approximately 64,640-acre “Clarksburg” viticultural area by approximately 27,945 acres. The Clarksburg viticultural area is located in Sacramento, Solano, and Yolo Counties, in California, and the expansion area is located in Sacramento and Solano Counties. The established Clarksburg viticultural area and the expansion area are not located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

## **SUPPLEMENTARY INFORMATION:**

### **Background on Viticultural Areas**

#### *TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

#### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the

regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

### *Requirements*

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same process to request changes to established AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to modify established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the area within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;
- An explanation of the basis for defining the boundary of the proposed expansion area;
- A narrative description of the features of the proposed expansion area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and

- A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

### **Petition to Expand the Clarksburg AVA**

TTB received a petition from James Reamer of Reamer Farms vineyard, submitted on behalf of himself and other wine industry members, proposing to expand the established “Clarksburg” AVA. The Clarksburg AVA (27 CFR 9.95) was established by T.D. ATF–166, which published in the **Federal Register** on January 23, 1984 (49 FR 2758). The Clarksburg AVA covers approximately 64,640 acres in Sacramento, Solano, and Yolo Counties in California. The Clarksburg AVA and the proposed expansion area are not located within any other AVA. Although the established Clarksburg AVA does contain the established Merritt Island AVA (27 CFR 9.68), the proposed expansion area is not adjacent to the Merritt Island AVA and would not affect the boundaries of that AVA.

The proposed expansion area is adjacent to the southern portion of the established AVA and entirely encompasses Grand Island and Ryer Island, which together cover approximately 27,945 acres. The petitioner states that within the proposed expansion area there are 350 acres of grapevines on Grand Island and three vineyards on Ryer Island. According to the petition, the soils, climate, and topography of the proposed expansion area are similar to those of the established Clarksburg AVA.

T.D. ATF–166 describes the soils of the Clarksburg AVA as poorly drained clay and clay loam soils, but provides no additional information about the soils of the surrounding regions except to note that viticulture to the west of the AVA is made impossible due to the combination of soils and flooding, and that the soils to the south of the AVA contain poorly drained organic and mineral soils.

However, the expansion petition provides more detailed information about the soils of the Clarksburg AVA and the surrounding regions. The expansion petition states that the lands within the Clarksburg AVA and the proposed expansion area fall into two groups: the alluvial fan–basin group and the flood plain–basin–blackswamp group. These landform groups influenced the development of the soils in the AVA. The alluvial fan–basin group lands are found mostly in the western portion of the Clarksburg AVA and include soils of the Lang, Laugenour, Maria, Merritt, Sycamore, Tyndall, and Valdez series, as well as Egbert, Omni, Sacramento, and Willows soils. The eastern portion of the Clarksburg AVA is characterized by flood plain–basin–blackswamp landforms. Soils commonly found in this region include the Columbia, Consumnes, Lang, Laugenour, Sailboat, and Valpac series, as well as Clear Lake, Dierssen, and Tinnin soils.

Soils of both landform groups share several characteristics, including low-to-moderate levels of organic material, poor to somewhat-poor drainage, and a combination of silt, clay, sand, and loam. Because of the poor drainage quality of the soils, a well-placed and maintained system of ditches and canals is necessary, as are tile drains in some locations. Ridges in the vine rows called berms also allow for better drainage and are common features in both the AVA and the proposed expansion area. Additionally, vineyard owners often use rootstocks with greater-than-average tolerances of wet soils in order to limit the risk of significant root dieback and root diseases.

The proposed expansion area contains both flood plain–basin–blackswamp landforms and alluvial fan–basin landforms. Grand Island, in the eastern portion of the proposed expansion area, consists mostly of flood plain–basin–blackswamp landforms. Soils found in both Grand Island and the Clarksburg AVA include the Consumnes, Egbert, Laugenour, and Sailboat

series. Ryer Island, in the western portion of the proposed expansion area, contains alluvial fan–basin landforms. Soils of the Egbert, Sacramento, and Valdez series are found in both the Clarksburg AVA and Ryer Island.

By contrast, one of the alluvial fan–basin landform soils found in the proposed expansion area and the Clarksburg AVA are found in the regions to the east and south, outside of the established AVA and the proposed expansion area. These regions contain a type of marshland soil called Rindge mucky silt loam, which is not found in either the Clarksburg AVA or the proposed expansion area. Furthermore, the soils to the east and south contain greater concentrations of organic matter. To the west of the proposed expansion area and the Clarksburg AVA, the common soils include the Capay and Pescadero series, which are not found in either the proposed expansion area or the AVA.

T.D. ATF–166 included precipitation as a distinguishing feature of the Clarksburg AVA, stating that the AVA receives an average of 16 inches of rain annually. The regions to the north and east were described as having higher annual rainfall amounts, while the regions to the south and west have lower annual amounts. T.D. ATF–166 also briefly discussed temperature, noting that Sacramento, which is north of the Clarksburg AVA, is generally 8 to 10 degrees warmer than the AVA is in the summer. The proposed expansion petition includes information about the average annual rainfall amounts of the Clarksburg AVA and the surrounding regions, which suggest that the Clarksburg AVA receives less rainfall annually than the surrounding regions. However, the petition did not include annual average rainfall amounts from within the proposed expansion area for comparison.

The expansion petition did provide more detailed information on temperatures in the region than that included in T.D. ATF–166, including

information on the growing season mean, maximum, and minimum temperatures from within the Clarksburg AVA and the proposed expansion area. The data suggests that the climate of the proposed expansion area is similar to that of the Clarksburg AVA.

T.D. ATF–166, which established the Clarksburg AVA, did not consider topography to be a distinguishing feature of the Clarksburg AVA, only noting that the “lower terraces to the east” of the AVA are prone to flooding.<sup>1</sup> However, the expansion petition includes topographic information that suggests the proposed expansion area is more topographically similar to the Clarksburg AVA than the surrounding regions outside the AVA. Within the proposed expansion area, elevations range from a lowest point of 10 feet below sea level to a highest point of 5 feet above sea level. Within the current boundaries of the Clarksburg AVA, elevations range from 10 feet below sea level to 10 feet above sea level. By comparison, elevations to the east and south of the proposed expansion area are generally lower than within the Clarksburg AVA and the proposed expansion area. The petition states that the generally lower elevations in the surrounding regions mean that the depths to water tables are appreciably shallower than within the AVA and the proposed expansion area. As a result, functional root zones are very shallow, and the potential for viticulture in the surrounding regions is feasible but limited. Elevations within the proposed expansion area and the Clarksburg AVA are similar to those of the region to the west, in the Yolo Bypass, but that region to the west was excluded from the AVA and the proposed expansion area due to the frequency of flooding.

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<sup>1</sup> 48 FR 2759.

## **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 198 in the **Federal Register** on November 10, 2020 (85 FR 71722), proposing to expand the Clarksburg AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed expansion area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed area, see Notice No. 198.

The comment period for Notice No. 198 closed January 11, 2021. In response to Notice No. 198, TTB received a total of two comments. One comment was from the Board of Directors of the Suisun Valley Vintners and Growers Association, which describes itself as the primary wine grape grower association in Solano County. The Board expressed support for the proposed expansion, noting that the Solano County portion of the proposed expansion area is “completely consistent in primary attributes (saving for slight variances) of the existing Clarksburg AVA” and should be allowed to use the “Clarksburg” appellation rather than the political appellation “Solano County.” Incorporating the proposed expansion area into the Clarksburg AVA would lead to “a more complete understanding of the varied regions within Solano County.” The second comment, from a wine industry member in Lodi, California, also expressed support for the proposed expansion.

### **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 198, TTB finds that the evidence provided by the petitioner supports the expansion of the Clarksburg AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and

parts 4 and 9 of the TTB regulations, TTB modifies the boundaries of the AVA effective 30 days from the publication date of this document.

### **Boundary Description**

See the narrative description of the boundary modifications of the Clarksburg AVA in the regulatory text published at the end of this final rule.

### **Maps**

The petitioners provided the required maps, and they are listed below in the regulatory text. The modified Clarksburg AVA boundaries may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

### **Impact on Current Wine Labels and Transition Period**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The expansion of the Clarksburg AVA boundary means that wines produced mainly from grapes grown in the expansion area may be labeled with “Clarksburg” as an appellation of origin. No other established AVAs are affected by this expansion.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

### **List of Subjects in 27 CFR Part 9**

Wine.

### **The Regulatory Amendment**

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

## Subpart C—Approved American Viticultural Areas

2. Section 9.95 is amended by adding paragraph (b)(9), revising paragraphs (c)(4) and (5), redesignating paragraphs (c)(6) through (12) as paragraphs (c)(7) through (13), and adding new paragraph(c)(6) to read as follows:

### § 9.95 Clarksburg.

\* \* \* \* \*

(b) \* \* \*

(9) Rio Vista, Calif., 1978 (minor revision 1993).

(c) \* \* \*

(4) Then south along Miner Slough to the point where it joins Cache Slough.

(5) Then south along Cache Slough to the point where it joins the Sacramento River.

(6) Then east, then generally northeasterly along the meandering Sacramento River to the point where it meets the Delta Cross Channel at the Southern Pacific Railroad.

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Signed: March 2, 2022.

**Mary G. Ryan,**

*Administrator.*

Approved: March 2, 2022.

**Timothy E. Skud,**

*Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).*

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